

**Introduced by Senator Speier**February 25, 2000

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An act to amend Sections 650, 2273, 6086.10, 6106.5, and 6153 of, to add Sections 1003, 1004, 2220.6, 2417, and 6106.6 to, and to add and repeal Article 10 (commencing with Section 9889.25) of Chapter 20.3 of Division 3 of, the Business and Professions Code, to add Section 26510 to the Government Code, to amend Sections 750 and 1872.7 of, to add Sections 758, 1874.7, and 11580.012 to, and to add Article 4.5 (commencing with Section 1874.85) and Article 4.6 (commencing with Section 1874.90) to Chapter 12 of Part 2 of Division 1 of, the Insurance Code, to amend Sections 549 and 550 of the Penal Code, and to add Sections 4000.5, 10903, 10904, and 13201.1 to the Vehicle Code, relating to insurance fraud, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1988, as introduced, Speier. Insurance fraud.

(1) The Automotive Repair Act provides for the licensing and regulation of automotive repair dealers, including auto body repair shops, by the Bureau of Automotive Repair in the Department of Consumer Affairs.

This bill would require the bureau to undertake Project 1000, under which the bureau would inspect insured vehicles that have undergone auto body repair to determine whether auto body fraud was committed in those cases and to determine what measures should be taken to prevent auto body fraud. This bill would require the project to be completed by December 31, 2002, and would require a report



to the Legislature by February 1, 2003. This bill would appropriate \$200,000 from the General Fund for purposes of the project.

(2) The Medical Practice Act, the Chiropractic Act, and the State Bar Act provide for the licensing and regulation of physicians, chiropractors, and attorneys, respectively. Under these and other related insurance fraud provisions, certain activities involving the engaging of runners, cappers, steerers, or other persons to procure patients or clients are a crime, and with respect to physicians and attorneys, are grounds for disciplinary action.

This bill would increase the penalties for these violations, thereby imposing a state-mandated local program. This bill would require a person licensed under these acts who is convicted of insurance fraud to have his or her license to practice the profession permanently revoked. This bill would require the applicable licensing boards to initiate disciplinary action against their licensees without waiting for the outcome of a criminal proceeding when they have information concerning a licensee that is sufficient to commence a disciplinary proceeding. This bill would also require a business organization that holds itself out to the public as an organization practicing medicine, or that a reasonably informed person would believe is engaged in the practice of medicine, to be owned and operated only by physicians. This bill would also require a district attorney to notify the State Board of Chiropractic Examiners whenever a chiropractor is convicted of an offense that subjects the licensee to license suspension or revocation.

(3) Existing law provides for licensing and regulation of insurers by the Insurance Commissioner. Existing law provides for funding of various activities relating to insurance fraud through assessments on insurers, including an assessment of \$1,000 annually per insurer to fund the costs of administration and operation of the Bureau of Fraudulent Claims in the Department of Insurance.

This bill would increase that assessment to \$1,300. This bill would require an insurer that pays a claim under an automobile insurance policy for medical or chiropractic services to require the claimant to certify as to the nature of



the service received and the date that the service was rendered, and would require these insurers to inspect a portion of the vehicles for which claims are paid for auto body repairs to determine whether the work paid for was appropriately done, as specified. This bill would require an insurer issuing auto policies to provide each insured with an Auto Body Repair Consumer Bill of Rights containing specified elements, and would require an auto insurance policy to clearly indicate whether or not it covers the cost of a replacement vehicle in case of an accident involving the insured vehicle. This bill would authorize the Insurance Commissioner to declare a region of the state as an auto insurance fraud crisis area, thereby requiring various steps to be taken by insurers with regard to the payment of auto insurance claims. This bill would also provide for a doubling of fines applicable to certain insurance fraud offenses committed in an auto insurance fraud crisis area.

(4) Existing law requires the registration by the Department of Motor Vehicles of vehicles operated on public streets and highways. Existing law provides for the licensing of drivers by the department, and the suspension or revocation of a driver's license by the department or a court for various reasons.

This bill would require the department to include a list of the top 10 vehicles stolen in California and other information about vehicle theft prevention with the annual registration renewal notice mailed to each vehicle owner. This bill would also require the Commissioner of the Department of the California Highway Patrol to chair a task force of various agencies to identify opportunities to coordinate resources in an effort to further reduce the incidence of automobile insurance fraud and automobile theft. This bill would require a court to suspend for one year the driver's license of any person convicted of auto insurance fraud.

(5) This bill would enact other related provisions. This bill would state the intent of the Legislature with respect to this act, which would be known as the Anti-Auto Theft and Insurance Fraud Act of 2000.

(6) This bill would require the provisions relating to the powers and duties of the State Board of Chiropractic



Examiners, which was created by an initiative statute, to be submitted to the voters for approval consistent with that initiative statute.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that  
2 auto theft, auto body repair fraud and other forms of auto  
3 insurance fraud, including staged accidents, cause great  
4 economic harm and personal suffering to the people of  
5 California. The cost of this theft and fraud has been  
6 estimated to be at least \$1 billion annually and may be in  
7 excess of \$9 billion annually. According to the Bureau of  
8 Automotive Repair, 39 percent of the work it inspects  
9 involves fraud, and according to the California Highway  
10 Patrol, insurance fraud and auto theft are linked to  
11 organized crime. Accordingly, the Legislature has  
12 determined that it is necessary to increase efforts by state  
13 agencies to combat this type of fraud and to require  
14 insurers to strengthen their antifraud efforts.

15 SEC. 2. This act shall be known and may be cited as  
16 the Anti-Auto Theft and Insurance Fraud Act of 2000.

17 SEC. 3. Section 650 of the Business and Professions  
18 Code is amended to read:

19 650. Except as provided in Chapter 2.3 (commencing  
20 with Section 1400) of Division 2 of the Health and Safety  
21 Code, the offer, delivery, receipt, or acceptance by any  
22 person licensed under this division of any rebate, refund,  
23 commission, preference, patronage dividend, discount,  
24 or other consideration, whether in the form of money or  
25 otherwise, as compensation or inducement for referring  
26 patients, clients, or customers to any person, irrespective

1 of any membership, proprietary interest or coownership  
2 in or with any person to whom these patients, clients or  
3 customers are referred is unlawful.

4 The payment or receipt of consideration for services  
5 other than the referral of patients which is based on a  
6 percentage of gross revenue or similar type of contractual  
7 arrangement shall not be unlawful if the consideration is  
8 commensurate with the value of the services furnished or  
9 with the fair rental value of any premises or equipment  
10 leased or provided by the recipient to the payor.

11 Except as provided in Chapter 2.3 (commencing with  
12 Section 1400) of Division 2 of the Health and Safety Code  
13 and in Sections 654.1 and 654.2, it shall not be unlawful for  
14 any person licensed under this division to refer a person  
15 to any laboratory, pharmacy, clinic (including entities  
16 exempt from licensure pursuant to Section 1206 of the  
17 Health and Safety Code), or health care facility solely  
18 because the licensee has a proprietary interest or  
19 coownership in the laboratory, pharmacy, clinic, or  
20 health care facility; provided, however, that the licensee's  
21 return on investment for that proprietary interest or  
22 coownership shall be based upon the amount of the  
23 capital investment or proportional ownership of the  
24 licensee which ownership interest is not based on the  
25 number or value of any patients referred. Any referral  
26 excepted under this section shall be unlawful if the  
27 prosecutor proves that there was no valid medical need  
28 for the referral.

29 "Health care facility" means a general acute care  
30 hospital, acute psychiatric hospital, skilled nursing  
31 facility, intermediate care facility, and any other health  
32 facility licensed by the State Department of Health  
33 Services under Chapter 2 (commencing with Section  
34 1250) of Division 2 of the Health and Safety Code.

35 A violation of this section is a public offense and is  
36 punishable ~~upon a first conviction by imprisonment in~~  
37 ~~the county jail for not more than one year, or by~~  
38 ~~imprisonment in the state prison, or by a fine not~~  
39 ~~exceeding ten thousand dollars (\$10,000), or by both such~~  
40 ~~imprisonment and fine. A second or subsequent~~

1 ~~conviction is punishable by imprisonment in the state~~  
2 ~~prison by imprisonment in the state prison for two, three,~~  
3 ~~or five years.~~

4 SEC. 4. Section 1003 is added to the Business and  
5 Professions Code, to read:

6 1003. (a) Except as otherwise allowed by law, the  
7 employment of runners, cappers, steerers, or other  
8 persons to procure patients constitutes unprofessional  
9 conduct.

10 (b) A licensee of the State Board of Chiropractic  
11 Examiners who is convicted of insurance fraud pursuant  
12 to Section 650, Section 750, 1871.1, or 1871.4 of the  
13 Insurance Code, or Section 549 of the Penal Code shall  
14 have his or her license to practice permanently revoked.

15 SEC. 5. Section 1004 is added to the Business and  
16 Professions Code, to read:

17 1004. The State Board of Chiropractic Examiners shall  
18 initiate disciplinary action against a licensee without  
19 waiting for the outcome of a criminal proceeding when  
20 the board has information concerning the licensee that is  
21 sufficient to commence a disciplinary proceeding.

22 SEC. 6. Section 2220.6 is added to the Business and  
23 Professions Code, to read:

24 2220.6. The board shall initiate disciplinary action  
25 against a licensee without waiting for the outcome of a  
26 criminal proceeding when the board has information  
27 concerning the licensee that is sufficient to commence a  
28 disciplinary proceeding under this chapter.

29 SEC. 7. Section 2273 of the Business and Professions  
30 Code is amended to read:

31 2273. (a) Except as otherwise allowed by law, the  
32 employment of runners, cappers, steerers, or other  
33 persons to procure patients constitutes unprofessional  
34 conduct.

35 (b) A licensee who is convicted of insurance fraud  
36 pursuant to Section 650, Section 750, 1871.1, or 1871.4 of  
37 the Insurance Code, or Section 549 of the Penal Code shall  
38 have his or her license to practice permanently revoked.

39 SEC. 8. Section 2417 is added to the Business and  
40 Professions Code, to read:



2417. (a) Any type of business organization that holds itself out to the public as an organization practicing medicine, or that a reasonably informed person would believe is engaged in the practice of medicine, shall be owned and operated only by one or more licensed physicians and surgeons.

(b) A physician and surgeon who knowingly practices medicine with a business organization not owned or operated in compliance with subdivision (a) shall have his or her license to practice permanently revoked.

SEC. 9. Section 6086.10 of the Business and Professions Code is amended to read:

6086.10. (a) Any order imposing a public reproof on a member of the State Bar shall include a direction that the member shall pay costs. In any order imposing discipline, or accepting a resignation with a disciplinary matter pending, the ~~Supreme~~ State Bar Court shall include a direction that the member shall pay costs.

(b) The costs required to be imposed pursuant to this section include all of the following:

(1) The actual expense incurred by the State Bar for the original and copies of any reporter's transcript of the State Bar proceedings, and any fee paid for the services of the reporter.

(2) All expenses paid by the State Bar which would qualify as taxable costs recoverable in civil proceedings.

(3) The charges determined by the State Bar to be "reasonable costs" of investigation, hearing, and review. These amounts shall serve to defray the costs, other than fees for the services of attorneys or experts, of the State Bar in the preparation or hearing of disciplinary proceedings, and costs incurred in the administrative processing of the disciplinary proceeding and in the administration of the client security fund.

(c) A member may be granted relief, in whole or in part, from an order assessing costs under this section, or may be granted an extension of time to pay these costs, in the discretion of the State Bar, upon grounds of hardship, special circumstances, or other good cause.



(d) In the event an attorney is exonerated of all charges following a formal hearing, he or she is entitled to reimbursement from the State Bar in an amount determined by the State Bar to be the reasonable expenses, other than fees for attorneys or experts, of preparation for the hearing.

SEC. 10. Section 6106.5 of the Business and Professions Code is amended to read:

~~6106.5. It shall constitute cause for disbarment or suspension for an~~ *An attorney to engage in who is convicted of any conduct prohibited under Section 6152, Section 750, 1871.1, or 1871.4 of the Insurance Code, or Section 549 of the Penal Code, shall be permanently disbarred.*

SEC. 11. Section 6106.6 is added to the Business and Professions Code, to read:

6106.6. Disciplinary action against an attorney shall be commenced without waiting for the outcome of a criminal proceeding when there are sufficient grounds concerning the conduct of an attorney to justify commencement of a disciplinary proceeding under this chapter.

SEC. 12. Section 6153 of the Business and Professions Code is amended to read:

~~6153. Any person, firm, partnership, association, or corporation violating subdivision (a) of Section 6152 is punishable, upon a first conviction by imprisonment in a county jail for not more than one year. Upon a second or subsequent conviction, a person, firm, partnership, association, or corporation is punishable by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for 16 months or 2 or 3 years, or by a fine of up to ten thousand dollars (\$10,000), or by both that imprisonment and fine two, three, or five years.~~

Any person employed either as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of the provisions of this article, shall forfeit the right to his office



1 and employment in addition to any other penalty  
2 provided in this article.

3 SEC. 13. Article 10 (commencing with Section  
4 9889.25) is added to Chapter 20.3 of Division 3 of the  
5 Business and Professions Code, to read:

6  
7 Article 10. Project 1000.  
8

9 9889.25. The bureau shall implement a program  
10 known as Project 1000, pursuant to which the bureau shall  
11 inspect 1,000 insured vehicles that have been subject to  
12 auto body repairs. Project 1000 shall be conducted  
13 between May 1, 2001, until the time that 1,000 vehicles  
14 have been inspected, or December 31, 2002, whichever  
15 is sooner. The purpose of Project 1000 shall be to identify  
16 acts of auto body repair fraud and to determine what  
17 measures should be taken to reduce auto body repair  
18 fraud in the future.

19 9889.26. Under Project 1000, the bureau may accept  
20 requests from the registered owner of an insured vehicle  
21 for the bureau to inspect a vehicle that has been subject  
22 to auto body repairs. Requests may be submitted by mail,  
23 by a toll-free telephone number, and via the Internet.  
24 The bureau shall, to the extent possible, accept requests  
25 in a manner to enable all areas of California to participate  
26 in Project 1000.

27 9889.27. The bureau shall select a vehicle for  
28 participation in Project 1000 based on the vehicle  
29 meeting each of the following criteria:

30 (a) The auto body repairs to the vehicle were  
31 completed within 60 days of the request to participate in  
32 Project 1000.

33 (b) The repair bill was in excess of three thousand five  
34 hundred dollars (\$3,500).

35 (c) The owner of the vehicle has an invoice for the  
36 completed work and is willing to provide access to the  
37 vehicle and the invoice to the bureau.

38 (d) Bureau personnel and resources to conduct an  
39 inspection are available.

1 9889.28. (a) The bureau may request an insurer to  
2 provide documents and other necessary information,  
3 related to an inspection to be performed under this  
4 article, pursuant to Sections 1874.1 and 1874.2 of the  
5 Insurance Code. The information provided in this regard  
6 shall be subject to Section 1872.5 of the Insurance Code.

7 (b) If, as the result of an inspection, any civil, criminal,  
8 or administrative action is taken against an auto body  
9 repair shop, the order or judgment shall include a  
10 requirement for restitution to the insurer that paid the  
11 claim.

12 9889.29. (a) The bureau shall immediately contact  
13 the applicable insurer when it discovers auto body fraud  
14 pursuant to an inspection conducted under this article.  
15 The insurer shall, within three business days, contact its  
16 insured to arrange for any corrective work that is  
17 required, which shall be performed at the insurer's  
18 expense.

19 (b) For purposes of this section, "auto body fraud"  
20 shall include, but not be limited to, work that was not  
21 performed but for which the insurer was billed, or  
22 completed work that does not represent work identified  
23 in the final invoice presented to the insured.

24 9889.30. The bureau shall report to the Legislature on  
25 the results of Project 1000 on or before February 1, 2003.

26 9889.31. This article shall become inoperative on  
27 January 1, 2004, and as of that date is repealed, unless a  
28 later enacted statute deletes or extends that date.

29 SEC. 14. Section 26510 is added to the Government  
30 Code, to read:

31 26510. The district attorney shall notify the State  
32 Board of Chiropractic Examiners of the conviction of any  
33 licensee of the board for an offense that may subject the  
34 licensee to license suspension or revocation.

35 SEC. 15. Section 750 of the Insurance Code is  
36 amended to read:

37 750. (a) Except as provided in Section 750.5, any  
38 person acting individually or through his or her  
39 employees or agents, who engages in the practice of  
40 processing, presenting, or negotiating claims, including

1 claims under policies of insurance, and who offers,  
2 delivers, receives, or accepts any rebate, refund,  
3 commission, or other consideration, whether in the form  
4 of money or otherwise, as compensation or inducement  
5 to or from any person for the referral or procurement of  
6 clients, cases, patients, or customers, is guilty of a crime.

7 (b) ~~(1) A violation of subdivision (a) is punishable~~  
8 ~~upon a first conviction by imprisonment in the county jail~~  
9 ~~for not more than one year, or by imprisonment in the~~  
10 ~~state prison, or by a fine not exceeding ten thousand~~  
11 ~~dollars (\$10,000), or by both that imprisonment and fine.~~

12 ~~(2) A second or subsequent conviction is punishable~~  
13 ~~by imprisonment in the state prison by imprisonment in~~  
14 ~~the state prison for two, three, or five years.~~

15 (c) Nothing in this section shall prohibit a licensed  
16 collection or lien agency from receiving a commission on  
17 the collection of delinquent debts nor prohibits the  
18 agency from paying its employees a commission for  
19 obtaining clients seeking collection on delinquent debts.

20 (d) Nothing in this section is intended to limit, restrict,  
21 or in any way apply to, the rebating of commissions by  
22 insurance agents or brokers, as authorized by Proposition  
23 103, enacted by the people at the November 8, 1988,  
24 general election.

25 SEC. 16. Section 758 is added to the Insurance Code,  
26 to read:

27 758. (a) It is unlawful for an insurer to require an  
28 auto body repair shop registered pursuant to Sections  
29 9884 and 9889.52 of the Business and Professions Code, as  
30 a condition of participation in the insurer's direct repair  
31 program, to pay for the cost of an insured's rental vehicle  
32 that is replacing an insured vehicle damaged in an  
33 accident, or to pay for the towing charges of the insured  
34 with respect to that accident. However, the insurer and  
35 the auto body repair shop may agree in writing to terms  
36 and conditions under which the rental vehicle charges  
37 become the responsibility of the auto body repair shop  
38 when the shop fails to complete work within the  
39 agreed-upon time for repair of the damaged vehicle.

1 (b) A registered auto body repair shop that is denied  
2 participation in an insurer's direct repair program may  
3 request the reason for the denial in writing. The insurer,  
4 upon receipt of the request, shall provide a written  
5 response within 30 calendar days.

6 SEC. 17. Section 1872.7 of the Insurance Code is  
7 amended to read:

8 1872.7. The costs of administration and operation of  
9 the Bureau of Fraudulent Claims shall be borne by all of  
10 the insurers admitted to transact insurance in this state.  
11 The commissioner shall divide those costs among all of  
12 those insurers, assessing each ~~such~~ company an identical  
13 amount adequate to provide the funds for each fiscal year  
14 of operation of the bureau. However, the assessment for  
15 each company shall not exceed one thousand *three*  
16 *hundred* dollars ~~(\$1,000)~~ (\$1,300) in each fiscal year. All  
17 moneys received by the commissioner from insurers  
18 pursuant to this section shall be transmitted to the  
19 Treasurer to be deposited in the State Treasury to the  
20 credit of the Insurance Fund. All moneys ~~which~~ *that* are  
21 deposited in the fund after receipt by the commissioner  
22 from insurers pursuant to this section ~~are hereby~~  
23 ~~appropriated to the department and~~ are to be exclusively  
24 used for the support of the Bureau of Fraudulent Claims.  
25 To the extent the assessments against insurers made  
26 pursuant to this section are not sufficient to fund the  
27 entire operations of the bureau, other moneys  
28 appropriated to the department, if available, may be  
29 used, at the commissioner's discretion, to fund those  
30 operations not covered by the assessments. The total  
31 budget of the bureau shall be as determined annually in  
32 the Budget Act.

33 SEC. 18. Section 1874.7 is added to the Insurance  
34 Code, to read:

35 1874.7. An insurer that pays a claim under an  
36 automobile insurance policy for medical or chiropractic  
37 services shall require the claimant to certify as to the  
38 nature of the service received and the date that the  
39 service was rendered.

SEC. 19. Article 4.5 (commencing with Section 1874.85) is added to Chapter 12 of Part 2 of Division 1 of the Insurance Code, to read:

Article 4.5. Insurer Inspections

1874.85. (a) Except as provided in subdivision (b), an insurer that issues automobile liability or collision policies shall inspect a minimum of 25 percent of the vehicles for which it has paid a claim for the cost of auto body repairs, after the work has been completed. The number of vehicles required to be inspected in a given calendar year shall be based on the number of vehicles for which the insurer approved payment of auto body repair claims in the preceding calendar year. As used in this article, “inspect” means a direct review of completed work in order to determine whether the work paid for was appropriately completed.

(b) An insurer may inspect fewer than the number of vehicles otherwise required to be inspected pursuant to subdivision (a) if the insurer provides an explanation in the annual report required pursuant to Section 1874.86 of how the volume of inspections conducted by the insurer satisfies the insurer’s objectives of reducing or eliminating auto body repair fraud.

1874.86. Each insurer subject to this article shall report annually to the department, the California Highway Patrol, and the Bureau of Automotive Repair on the following:

(a) The number of vehicles inspected pursuant to Section 1874.85 and the percentage that this number represents of the total number of vehicles for which it paid a claim for the cost of auto body repairs in the prior calendar year.

(b) The results of the inspections, including the nature of any fraud uncovered, and whether or not legal action was pursued.

(c) The explanation required by subdivision (b) of Section 1874.85, if applicable.

1 1874.87. (a) Each insurer subject to this article shall  
2 provide each insured with an Auto Body Repair  
3 Consumer Bill of Rights at the time of first issuance of an  
4 automobile insurance policy. If the insurer provides the  
5 insured with an electronic copy of a policy, the bill of  
6 rights may also be transmitted electronically.

7 (b) The bill of rights shall be a separate document  
8 from the insurance policy. The content of the bill of rights  
9 shall be determined by the department, and at a  
10 minimum, shall contain information about all of the  
11 following:

12 (1) A consumer's right to select an auto body repair  
13 shop for auto body damage covered by the insurance  
14 policy and that an insurer may not require this work to be  
15 done at a particular auto body repair shop.

16 (2) The relative efficacy of using new or used parts, or  
17 aftermarket or original equipment of the manufacturer,  
18 in the repair of a vehicle.

19 (3) Coverage for towing services, and for a  
20 replacement rental vehicle while a damaged vehicle is  
21 being repaired, or if there is no coverage, a clear  
22 statement to that effect.

23 (4) Toll-free telephone numbers and Internet  
24 addresses for reporting suspected fraud or other  
25 complaints and concerns about auto body repair shops to  
26 the Bureau of Automotive Repair.

27 (c) The department shall consult with the Bureau of  
28 Automotive Repair in determining the information to be  
29 contained in the bill of rights. An insurer may either use  
30 the standard form provided by the department, or its own  
31 form, which shall be approved by the department prior  
32 to distribution.

33 SEC. 20. Article 4.6 (commencing with Section  
34 1874.90) is added to Chapter 12 of Part 2 of Division 1 of  
35 the Insurance Code, to read:

36  
37 Article 4.6. Auto Insurance Fraud Crisis Areas  
38

39 1874.90. The commissioner may declare any region of  
40 the state as an auto insurance fraud crisis area upon

1 making a finding that auto insurance fraud is endemic to  
2 the area.

3 1874.91. All claims made in an auto insurance fraud  
4 crisis area shall be reported by the insurer to the  
5 department or the National Association of Insurance  
6 Commissioners within 48 hours of the filing of the claim.  
7 If an attorney filed the claim, the name of the attorney  
8 shall also be reported.

9 1874.92. (a) An insurer shall report all claims made in  
10 an auto insurance fraud crisis area that are filed within 90  
11 days of the issuance of an automobile insurance policy to  
12 the Bureau of Fraudulent Claims.

13 (b) The commissioner shall have the authority to  
14 adopt an alternative to the 90-day standard established in  
15 subdivision (a), and shall not be required,  
16 notwithstanding any other provision of law, to disclose  
17 the standard in effect at any given point in time. Any  
18 document directly relating to any action by the  
19 commissioner under this article shall be exempt from  
20 disclosure under Chapter 3.5 (commencing with Section  
21 6250) of Division 7 of Title 1 of the Government Code.

22 SEC. 21. Section 11580.012 is added to the Insurance  
23 Code, to read:

24 11580.012. (a) Every automobile insurance policy  
25 that provides liability, collision, or comprehensive  
26 coverage, but that does not provide any coverage for the  
27 cost of a rental vehicle to temporarily replace a damaged  
28 vehicle of the insured that is being repaired after an  
29 accident, shall disclose that lack of coverage to the  
30 insured and shall require the insured to acknowledge the  
31 lack of coverage by initialing the disclosure document.

32 (b) Every price comparison between various insurers'  
33 automobile insurance policies in an electronic or print  
34 display advertisement shall disclose which, if any, of the  
35 coverages and costs being compared include coverage for  
36 the cost of a rental vehicle to temporarily replace a  
37 damaged vehicle of the insured that is being repaired  
38 after an accident.

39 SEC. 22. Section 549 of the Penal Code is amended to  
40 read:



1 549. Any firm, corporation, partnership, or  
2 association, or any person acting in his or her individual  
3 capacity, or in his or her capacity as a public or private  
4 employee, who solicits, accepts, or refers any business to  
5 or from any individual or entity with the knowledge that,  
6 or with reckless disregard for whether, the individual or  
7 entity for or from whom the solicitation or referral is  
8 made, or the individual or entity who is solicited or  
9 referred, intends to violate Section 550 of this code or  
10 Section 1871.4 of the Insurance Code is guilty of a crime,  
11 punishable ~~upon a first conviction by imprisonment in~~  
12 ~~the county jail for not more than one year or by~~  
13 ~~imprisonment in the state prison for 16 months, two years,~~  
14 ~~or three years, or by a fine not exceeding ten thousand~~  
15 ~~dollars (\$10,000), or by both that fine and imprisonment.~~  
16 ~~A second or subsequent conviction is punishable by~~  
17 ~~imprisonment in the state prison by imprisonment in the~~  
18 ~~state prison for two, three, or five years.~~

19 SEC. 23. Section 550 of the Penal Code is amended to  
20 read:

21 550. (a) It is unlawful to do any of the following, or to  
22 aid, abet, solicit, or conspire with any person to do any of  
23 the following:

24 (1) Knowingly present or cause to be presented any  
25 false or fraudulent claim for the payment of a loss or  
26 injury, including payment of a loss or injury under a  
27 contract of insurance.

28 (2) Knowingly present multiple claims for the same  
29 loss or injury, including presentation of multiple claims to  
30 more than one insurer, with an intent to defraud.

31 (3) Knowingly cause or participate in a vehicular  
32 collision, or any other vehicular accident, for the purpose  
33 of presenting any false or fraudulent claim.

34 (4) Knowingly present a false or fraudulent claim for  
35 the payments of a loss for theft, destruction, damage, or  
36 conversion of a motor vehicle, a motor vehicle part, or  
37 contents of a motor vehicle.

38 (5) Knowingly prepare, make, or subscribe any  
39 writing, with the intent to present or use it, or to allow it

1 to be presented, in support of any false or fraudulent  
2 claim.

3 (6) Knowingly make or cause to be made any false or  
4 fraudulent claim for payment of a health care benefit.

5 (7) Knowingly submit a claim for a health care benefit  
6 that was not used by, or on behalf of, the claimant.

7 (8) Knowingly present multiple claims for payment of  
8 the same health care benefit with an intent to defraud.

9 (9) Knowingly present for payment any undercharges  
10 for health care benefits on behalf of a specific claimant  
11 unless any known overcharges for health care benefits for  
12 that claimant are presented for reconciliation at that  
13 same time.

14 (10) For purposes of paragraphs (6) to (9), inclusive,  
15 a claim or a claim for payment of a health care benefit also  
16 means a claim or claim for payment submitted by or on  
17 the behalf of a provider of any workers' compensation  
18 health benefits under the Labor Code.

19 (b) It is unlawful to do, or to knowingly assist or  
20 conspire with any person to do, any of the following:

21 (1) Present or cause to be presented any written or  
22 oral statement as part of, or in support of or opposition to,  
23 a claim for payment or other benefit pursuant to an  
24 insurance policy, knowing that the statement contains  
25 any false or misleading information concerning any  
26 material fact.

27 (2) Prepare or make any written or oral statement that  
28 is intended to be presented to any insurer or any  
29 insurance claimant in connection with, or in support of or  
30 opposition to, any claim or payment or other benefit  
31 pursuant to an insurance policy, knowing that the  
32 statement contains any false or misleading information  
33 concerning any material fact.

34 (3) Conceal, or knowingly fail to disclose the  
35 occurrence of, an event that affects any person's initial or  
36 continued right or entitlement to any insurance benefit  
37 or payment, or the amount of any benefit or payment to  
38 which the person is entitled.

39 (4) Prepare or make any written or oral statement,  
40 intended to be presented to any insurer or producer for

1 the purpose of obtaining a motor vehicle insurance  
2 policy, that the person to be the insured resides or is  
3 domiciled in this state when, in fact, that person resides  
4 or is domiciled in a state other than this state.

5 (c) (1) Every person who violates paragraph (1), (2),  
6 (3), (4), or (5) of subdivision (a) is guilty of a felony  
7 punishable by imprisonment in the state prison for two,  
8 three, or five years, and by a fine not exceeding fifty  
9 thousand dollars (\$50,000), unless the value of the fraud  
10 exceeds fifty thousand dollars (\$50,000), in which event  
11 the fine may not exceed double of the value of the fraud.

12 (2) Every person who violates paragraph (6), (7), (8),  
13 or (9) of subdivision (a) is guilty of a public offense.

14 (A) Where the claim or amount at issue exceeds four  
15 hundred dollars (\$400), the offense is punishable by  
16 imprisonment in the state prison for two, three, or five  
17 years, or by a fine not exceeding fifty thousand dollars  
18 (\$50,000), or by both that imprisonment and fine, unless  
19 the value of the fraud exceeds fifty thousand dollars  
20 (\$50,000), in which event the fine may not exceed double  
21 the value of the fraud, or by imprisonment in a county jail  
22 not to exceed one year, by a fine of not more than one  
23 thousand dollars (\$1,000), or by both that imprisonment  
24 and fine.

25 (B) Where the claim or amount at issue is four  
26 hundred dollars (\$400) or less, the offense is punishable  
27 by imprisonment in a county jail not to exceed six months,  
28 or by a fine of not more than one thousand dollars  
29 (\$1,000), or by both that imprisonment and fine, unless  
30 the aggregate amount of the claims or amount at issue  
31 exceeds four hundred dollars (\$400) in any  
32 12-consecutive-month period, in which case the claims or  
33 amounts may be charged as in subparagraph (A).

34 (3) Every person who violates paragraph (1), (2), (3),  
35 or (4) of subdivision (b) shall be punished by  
36 imprisonment in the state prison for two, three, or five  
37 years, ~~or by a fine not exceeding fifty thousand dollars~~  
38 ~~(\$50,000), unless the value of the fraud exceeds fifty~~  
39 ~~thousand dollars (\$50,000), in which event the fine may~~  
40 ~~not exceed double the value of the fraud, or by both that~~

~~imprisonment and fine; or by imprisonment in a county jail not to exceed one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.~~

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section or Section 548, or of Section 1871.4 of the Insurance Code, or former Section 556 of the Insurance Code, or former Section 1871.1 of the Insurance Code as an adult under charges separately brought and tried two or more times. The existence of any fact that would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except when the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(e) Except as otherwise provided in subdivision (f), any person who violates subdivision (a) or (b) and who has a prior felony conviction of an offense set forth in either subdivision (a) or (b), in Section 548, in Section 1871.4 of the Insurance Code, in former Section 556 of the Insurance Code, or in former Section 1871.1 of the Insurance Code shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (c). The existence of any fact that

1 would subject a person to a penalty enhancement shall be  
2 alleged in the information or indictment and either  
3 admitted by the defendant in open court, or found to be  
4 true by the jury trying the issue of guilt or by the court  
5 where guilt is established by plea of guilty or nolo  
6 contendere or by trial by the court sitting without a jury.  
7 Any person who violates this section shall be subject to  
8 appropriate orders of restitution pursuant to Section  
9 13967 of the Government Code.

10 (f) Any person who violates paragraph (3) of  
11 subdivision (a) and who has two prior felony convictions  
12 for a violation of paragraph (3) of subdivision (a) shall  
13 receive a five-year enhancement in addition to the  
14 sentence provided in subdivision (c). The existence of  
15 any fact that would subject a person to a penalty  
16 enhancement shall be alleged in the information or  
17 indictment and either admitted by the defendant in open  
18 court, or found to be true by the jury trying the issue of  
19 guilt or by the court where guilt is established by plea of  
20 guilty or nolo contendere or by trial by the court sitting  
21 without a jury.

22 (g) Except as otherwise provided in Section 12022.7,  
23 any person who violates paragraph (3) of subdivision (a)  
24 shall receive a two-year enhancement for each person  
25 other than an accomplice who suffers serious bodily  
26 injury resulting from the vehicular collision or accident in  
27 a violation of paragraph (3) of subdivision (a).

28 (h) This section shall not be construed to preclude the  
29 applicability of any other provision of criminal law or  
30 equitable remedy that applies or may apply to any act  
31 committed or alleged to have been committed by a  
32 person.

33 (i) *Any fine imposed pursuant to this section shall be*  
34 *doubled if the offense was committed in an auto*  
35 *insurance fraud crisis area designated by the Insurance*  
36 *Commissioner pursuant to Article 4.6 (commencing with*  
37 *Section 1874.90) of Chapter 12 of Part 2 of Division 1 of*  
38 *the Insurance Code.*

39 SEC. 24. Section 4000.5 is added to the Vehicle Code,  
40 to read:

1 4000.5. In conjunction with its mailing of the annual  
2 vehicle registration renewal notice, the department shall  
3 send a list of the top 10 vehicles stolen in this state and  
4 information advising vehicle owners how to deter vehicle  
5 theft.

6 SEC. 25. Section 10903 is added to the Vehicle Code,  
7 to read:

8 10903. The commissioner shall chair a task force  
9 formed jointly by the Department of Insurance, the  
10 Department of Motor Vehicles, the Department of the  
11 California Highway Patrol, the Medical Board of  
12 California, the State Board of Chiropractic Examiners,  
13 the State Bar of California, the Bureau of Automotive  
14 Repair, and the Department of Corrections to identify  
15 opportunities to coordinate resources in an effort to  
16 further reduce the incidence of automobile insurance  
17 fraud and automobile theft. The task force shall meet  
18 monthly, and report its progress and findings to the  
19 Legislature annually.

20 SEC. 26. Section 10904 is added to the Vehicle Code,  
21 to read:

22 10904. The commissioner may develop a public  
23 education campaign to deter participation in auto  
24 insurance fraud and to encourage reporting of fraudulent  
25 claims.

26 SEC. 27. Section 13201.1 is added to the Vehicle Code,  
27 to read:

28 13201.1. A court shall suspend the privilege of any  
29 person to operate a motor vehicle for one year upon  
30 conviction of the crime of auto insurance fraud,  
31 including, but not limited to, a violation of paragraph (3)  
32 or (4) of subdivision (a) of Section 550 of the Penal Code.

33 SEC. 28. The sum of two hundred thousand dollars  
34 (\$200,000) is hereby appropriated from the General Fund  
35 to the Department of Consumer Affairs for allocation to  
36 the Bureau of Automotive Repair for the purposes of  
37 Article 10 (commencing with Section 9889.25) of Chapter  
38 20.3 of Division 3 of the Business and Professions Code.

39 SEC. 29. Sections 4 and 5 shall not become operative  
40 until approved by the voters. The Secretary of State is

1 hereby directed to place those provisions on the ballot of  
2 the next statewide election for approval by the voters in  
3 accordance with applicable provisions of law.

4 SEC. 30. No reimbursement is required by this act  
5 pursuant to Section 6 of Article XIII B of the California  
6 Constitution because the only costs that may be incurred  
7 by a local agency or school district will be incurred  
8 because this act creates a new crime or infraction,  
9 eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section  
11 17556 of the Government Code, or changes the definition  
12 of a crime within the meaning of Section 6 of Article  
13 XIII B of the California Constitution.

